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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/529,874	04/01/2005	Ruediger Duwendag	P70411USD	7763
136 7590 01/07/2008 JACOBSON HOLMAN PLLC 400 SEVENTH STREET N.W. SUITE 600 WASHINGTON, DC 20004				
EXAMINER				
CAILLOUET, CHRISTOPHER C				
ART UNIT		PAPER NUMBER		
4191				
MAIL DATE		DELIVERY MODE		
01/07/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

10/529,874

**Applicant(s)**

DUWENDAG ET AL.

**Examiner**

Christopher C. Caillouet

**Art Unit**

4191

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-3 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 April 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SI/309)
- Paper No(s)/Mail Date 01/09/2006
- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date \_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_

**GLUING DEVICE IN A BOTTOM LAYING DEVICE**

Examiner: Caillouet      S.N. 11/184,139      Art Unit: 4191      January 3, 2008

***Priority***

1. Acknowledgment is made of applicant's claim for foreign priority under 35 U.S.C. 119(a)-(d). The certified copy has been filed in parent Application No. PCT/EP03/13312, filed on 11/26/2003.

***Claim Objections***

2. Claim 1 objected to because of the following informalities: Claim 1 should not include bullets. Where a claim sets forth a plurality of elements or steps, each element or step of the claim should be separated by a line indentation (37 CFR 1.75(i)).

Appropriate correction is required.

3. The use of the term "thereby" in the aforementioned claims is improper. It is noted that the courts have held that functional "whereby" statements do not define any structure, and accordingly cannot serve to distinguish over the prior art. See *In re Mason*, 114 USPQ 127, 44 CCPA 937 (1957). Appropriate corrections are required.

***Claim Rejections – 35 USC § 112***

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

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The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 1-3 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

6. Claim 1 recites the limitation "the glue transfer rollers" in line 13. There is insufficient antecedent basis for this limitation in the claim. Claim 1 recites the limitation "often equipped with a block format or a format block roller" in lines 13-15. There is insufficient antecedent basis for this limitation in the claim. It is unclear whether a format or format block roller as part of the bottoming device. It is unclear because of "often."

#### ***Claim Rejections – 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

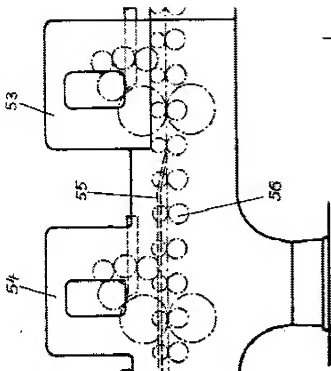
(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over the admitted prior art (APA) in view of Niemeyer (US Patent 3, 043,199).

Regarding claim 1, the admitted prior art discloses a bottoming device having different processing stations, glue transfer rollers and counterpressure rollers whereby

during transport the axis of the tube is as claimed and during gluing the folded bottom lies orthogonal to the tube axis (page 1 and Figs 1-2). However, the APA does not teach to offset the gluing stations in the direction of the transport axis.

Niemeyer teaches an apparatus for forming cross bottomed-valve bags from tube segments whereby the tube segments pass through different processing stations, forming cross bottoms at both ends. (Column 4 lines 58-70). Niemeyer recognizes the problem where the bags are so short in relation to their width that the gluing portion cannot be performed on the ends of the blank simultaneously (column 1, lines 21-32). Niemeyer further teaches to offset the gluing stations for the cross-bottom bag in the direction of conveyance (column 4, lines 6-19; Fig. 12 & 13), and the gluing application of the ends follows each other immediately. By offsetting the gluing stations, Niemeyer gains an advantage by being able to shorten the length of the machine, and that corresponding operations on the two ends of each blank are not separated from one another by means for performing other operations, but follow each other immediately (column 2, lines 35-41). Therefore, it would have been obvious for one of ordinary skill in the art at the time of the invention to incorporate mutually offsetting gluing rollers onto the admitted prior art, because Niemeyer teaches the use of such station configuration to make compact machine.



With respect to claim 2, in APA figures 1 and 2, the mean bottom size corresponds to the sum of the diameter of the counterpressure rollers (Specification page 4). Thus if this same prior art device was used for smaller bags (smaller mean bottom size), therefore, it would have been obvious to one of ordinary skill in the art to recognize the mean bottom size would have to be less than the sum of the diameter of the counterpressure rollers, i.e., the diameter of each of the counter pressure rollers is greater than half the mean bottom size.

With respect to claim 3, Niemeyer discloses that by performing corresponding operations immediately one after the other on the blank helps minimize the length of his machine (column 2, lines 36-41). This allows for the machine to remain similar to that of a normal one without offset in principle (column 2, lines 41-47). This suggests

minimizing the distance between the offset pairs and thus to a distance such as less than 50 cm. "Immediately" and similar to normal seems to suggest minimizing the distance and less than 50 cm would have been obvious to one of ordinary skill.

### ***Conclusion***

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The reference of Baumer (US Patent NO. 6,042, 526) discloses a method and apparatus for making a bottom of a tubular section for formation of a bag or sack. The reference of Achelpohl et al (US Patent NO. 3,554,098) discloses a bag making machine with offset pressure rollers. The reference of Baumer (US Patent NO. 6,042, 526) discloses a method and apparatus for making a bottom of a tubular section for formation of a bag or sack. The reference of Achelpohl et al (US Patent NO. 3,554,098) discloses a bag making machine with offset pressure rollers.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher C. Caillouet whose telephone number is (571) 270-3968. The examiner can normally be reached on Monday - Thursday; 7:30am-5:00pm, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dah-Wei Yuan can be reached on (571) 272-1295. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Dah-Wei D. Yuan/  
Supervisory Patent Examiner, Art Unit 4191